

**BEFORE THE MISSOURI REAL ESTATE COMMISSION**

MISSOURI REAL ESTATE Commission,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 14-1873RE
	)	
BARBARA A. WESLEY	)	
and	)	
RESSCO LLC,	)	
	)	
Respondents.	)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DISCIPLINARY ORDER**

On or about March 16, 2015, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Barbara A. Wesley and Ressco LLC*, No. 14-1873RE. In that Default Decision, the Administrative Hearing Commission found that Respondents Barbara A. Wesley's real estate broker associate license (license no. 1999033226) and Ressco LLC's real estate association license (license no. 2007009533) are subject to disciplinary action by the Commission pursuant to § 339.100.2(15), (16), and (19) RSMo.<sup>1</sup>

The Missouri Real Estate Commission ("Commission") has received and reviewed the record of the proceedings before the Administrative Hearing Commission and the Default Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission is incorporated herein by reference in its entirety.

Pursuant to notice and §§ 621.110 and 339.100.3, RSMo, the Commission held a hearing on June 3, 2015, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action

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<sup>1</sup> All Statutory References are to the Revised Statutes of Missouri, 2000, as amended, unless otherwise indicated.

against Respondents' licenses. All of the members of the Commission were present throughout the meeting. Further, each member of the Commission that was present for the hearing has read the Default Decision of the Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Nichole Bock. Respondents having received proper notice and opportunity to appear, Respondent Barbara A. Wesley did not appear in person or through legal counsel. Respondent Ressco LLC was not represented by counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues these following Findings of Facts, Conclusions of Law and Order.

Based upon the foregoing the Commission hereby states:

**I.**

**FINDINGS OF FACT**

1. The Commission is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo, for the purpose of licensing all persons engaged in the practice as a real estate broker or salesperson in this state. The Commission has control and supervision of the licensed occupations and enforcement of the terms and provisions of §§ 339.010-339.205 and 339.710-339.855, RSMo.
2. The Commission hereby adopts and incorporates by reference the findings of fact of the Default Decision and record of the Administrative Hearing Commission in *Barbara A. Wesley and Ressco LLC*, No. 14-1873RE, in its entirety and takes official notice thereof and hereby enters its findings of fact consistent therewith.
3. The Commission set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondents in a proper and timely fashion.

4. The Commission issued Barbara A. Wesley's real estate broker associate license 1999033226 and Ressco LLC's real estate association license 2007009533. Respondents' licenses were not current at all times relevant to this proceeding. On June 30, 2014 Respondents' licenses expired.

## II.

### CONCLUSIONS OF LAW

5. This Commission has jurisdiction over this proceeding pursuant to §§ 621.110 and 339.100, RSMo.

6. The Commission expressly adopts and incorporates by reference the conclusions of law and Default Decision issued by the Administrative Hearing Commission dated January 29, 2013, in *Missouri Real Estate Commission v. Barbara A. Wesley and Ressco LLC*, No. 14-1873RE, takes official notice thereof, and hereby enters its conclusions of law consistent therewith.

7. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Default Decision dated March 16, 2015, Respondents' real estate licenses are subject to disciplinary action by the Commission pursuant to § 339.100.2 (15), (16), and (19) RSMo.

8. The Commission has determined that this Order is necessary to ensure the protection of the public.

## III.


### ORDER

Having fully considered all the evidence before the Commission, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the **ORDER** of the

Commission that the real estate broker associate license of Barbara A. Wesley (license no. 1999033226 and the real estate association license of Ressco LLC (license no. 2007009533) are hereby **REVOKED**. All evidence of Respondent Barbara A. Wesley's licensure shall be immediately returned to the Commission. All evidence of Respondent Ressco LLC's licensure shall be immediately returned to the Commission along with a Closing of a Real Estate Brokerage/Sole Proprietorship form.

SO ORDERED, EFFECTIVE THIS 8<sup>th</sup> DAY OF June, 2015

MISSOURI REAL ESTATE COMMISSION

  
\_\_\_\_\_  
Joseph Derkler, Executive Director

Before the  
Administrative Hearing Commission  
State of Missouri



MISSOURI REAL ESTATE COMMISSION, )

Petitioner, )

vs. )

No. 14-1873 RE

BARBARA WESLEY and RESSCO LLC, )

Respondents. )


**DEFAULT DECISION**

On December 2, 2014, Petitioner filed a properly pled complaint seeking to discipline Respondents. Respondents were served with a copy of the complaint and our notice of complaint/notice of hearing by personal service on February 4, 2015.

More than thirty days have elapsed since Respondents were served. Respondents have not filed an answer or otherwise responded to the complaint.

In accordance with § 621.100.2, RSMo (Supp. 2013), we enter a default decision against Respondents establishing that Petitioner is entitled to the relief requested in the complaint. This default decision shall become final and may not be set aside unless a motion is filed with this Commission within thirty days of the date of this order establishing good cause for not responding to the complaint and stating facts constituting a meritorious defense.

SO ORDERED on March 16, 2015.

  
AUDREY HANSON MCINTOSH  
Commissioner

BEFORE THE  
ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI

MISSOURI REAL ESTATE COMMISSION, )  
3605 Missouri Boulevard )  
P.O. Box 1339 )  
Jefferson City, MO 65102, )

Petitioner, )

v. )

BARBARA A. WESLEY, )  
24160 E Highway M )  
Dunnegan, MO 65640 )  
Telephone: (417)326-9424, )

and )

RESSCO LLC, )

Serve: Barbara A. Wesley )  
P.O. Box 234 )  
113 South Ohio )  
Humansville, MO 65674 )  
Telephone: (417)326-9424 )

Respondents. )

**FILED**

DEC 02 2014

ADMINISTRATIVE HEARING  
COMMISSION

Case No. 14-1873 RE

COMPLAINT

Petitioner, the Missouri Real Estate Commission ("MREC"), by and through its counsel, the Attorney General of the State of Missouri, states the following for its cause of action against Respondents Barbara A. Wesley ("Wesley") and Ressco LLC ("Ressco"):

1. The MREC is an agency of the State of Missouri created and existing pursuant to § 339.120, RSMo (Supp. 2013),<sup>1</sup> for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.180 and §§ 339.710 to 339.860, RSMo (as amended), relating to real estate salespersons and brokers.

2. Wesley is licensed by the MREC as a real estate broker associate, license no. 1999033226. Wesley's license was current and active at all times relevant herein until it expired on June 30, 2014.

3. Ressco is licensed by the MREC as a real estate association, license no. 2007009533. Ressco's license was current and active at all times relevant herein until it expired on June 30, 2014.

4. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 339.100.2, RSMo (Supp. 2013).

5. At all times relevant herein, Wesley was the designated broker for Ressco.

6. Ressco was selected by the MREC for an audit of its real estate activities.

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<sup>1</sup>All statutory citations are to the Revised Statutes of Missouri 2000, as supplemented, unless otherwise noted.

7. On or about October 30, 2013, the MREC mailed a questionnaire regarding Ressco's real estate activities ("audit questionnaire") to Wesley, along with a letter requesting that she complete the questionnaire and return it to the MREC within thirty days. The October 30, 2013 letter also requested that Wesley provide copies of her license and the company license.

8. On or about December 6, 2013, the MREC sent a second audit questionnaire to Wesley, along with a letter renewing its request that she complete the audit questionnaire and return it to the MREC within thirty days.

9. On or about January 24, 2014, the MREC's examiner contacted Wesley by telephone because she had not responded to the MREC's October 30, 2013 and December 6, 2013 letters. During that conversation, Wesley told the MREC's examiner that she had lost the copies of the audit questionnaire that were sent to her and had not had time to complete the questionnaire.

10. That same day, January 24, 2014, the MREC sent a third copy of the audit questionnaire to Wesley, by fax, along with a letter instructing her to complete and return the questionnaire to the MREC by no later than January 30, 2014.

11. Later that same day, January 24, 2014, Wesley returned the completed audit questionnaire to the MREC. However, she did not submit

copies of the licenses that were requested to be included with the questionnaire.

12. On or about January 31, 2014, the MREC sent a letter to Wesley informing her that all of the required information had not been included with the questionnaire and asking her to send copies of her license and the license of the brokerage to the MREC.

13. On or about March 21, 2014, the MREC's examiner attempted to contact Wesley by telephone, and left a voice message requesting information about the brokerage's sign and office policies. The examiner also informed Wesley by voice message that the examiner would arrive at Wesley's office on March 27, 2014 to perform an audit.

14. On or about March 24, 2014, Wesley left a voice message for the MREC's examiner stating that she would not be able to meet with the examiner on March 27, 2014, and that she had taken down the brokerage's sign.

15. On or about March 26, 2014, the MREC received correspondence and a copy of an office policy from Wesley. However, Wesley did not provide the requested licenses.

16. On or about June 18, 2014, the MREC's Executive Director, Janet Carder, sent a letter to Wesley notifying her that the MREC had reviewed

the results of the attempted audit and was concerned about her lack of cooperation and timely response to the examiner's requests.

17. The June 18, 2014 letter also requested that, within thirty days, Wesley provide the MREC written correspondence, proof that she had placed a sign outside of the business, and copies of her license and the license of the other licensee affiliated with Ressco, Nancy Lucille Howe.

18. As of the date of this Complaint, neither Wesley nor Ressco have responded to the MREC's June 18, 2014 attempt to contact them or submitted the requested information.

19. State regulation 20 CSR 2250-8.170(1) requires licensees to respond to the MREC's written requests or inquires within thirty days, and states:

Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee.

20. By failing to respond to the MREC's October 30, 2013, December 6, 2013 and June 18, 2014 written requests within thirty days, Wesley and/or Ressco violated 20 CSR 2250-8.170. Wesley's and/or Ressco's violation of that regulation provides cause to discipline their licenses pursuant to § 339.100.2(15), RSMo (Supp. 2013).

21. Section 339.105.3, RSMo and state regulation 20 CSR 2250-8.160 require a broker to retain records relating to their business and escrow accounts and allow the MREC to review those records.

22. Section 339.105.3, RSMo states:

In conjunction with each escrow or trust account a broker shall maintain books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be provided to the commission and its duly authorized agents for inspection at all times during regular business hours at the broker's usual place of business.

23. 20 CSR 2250-8.160 states:

(1) Every broker shall retain for a period of at least three (3) years true copies of all business books; accounts, including voided checks; records; contracts; brokerage relationship agreements; closing statements and correspondence relating to each real estate transaction that the broker has handled. The records shall be made available for inspection by the commission and its authorized agents at all times during usual business hours at the broker's regular place of business. No broker shall charge a separate fee relating to retention of records.

(2) Every broker shall retain for a period of at least three (3) years true copies of all property management agreements, correspondence or other written authorization relating to each real estate transaction relating to leases, rentals or management activities the broker has handled. The broker must also retain all business books, accounts and records unless these records are released to the owner(s) or transferred to another broker by written detailed

receipt or transmittal letter agreed to in writing by all parties to the transaction.

24. By failing to meet with the MREC's examiner and make their records available for inspection by the MREC, Wesley and/or Ressco violated § 339.105.3, RSMo (Supp. 2013) and 20 CSR 2250-8.160. Wesley's and/or Ressco's violation of the statute and regulation provides cause to discipline their licenses pursuant to § 339.100.2(15), RSMo (Supp. 2013).

25. State regulation 20 CSR 2250-8.060 requires that a broker display licenses upon request, and states:

Every broker shall maintain his/her license and the licenses of all associates in the regular place of business or branch office(s). The licenses shall be displayed to any member of the public on request.

26. By failing to provide copies of licenses to the MREC upon request, Wesley and/or Ressco violated 20 CSR 2250-8.060. Wesley's and/or Ressco's violation of that regulation provides cause to discipline their licenses pursuant to § 339.100.2(15), RSMo (Supp. 2013).

27. Wesley's and/or Ressco's conduct, as alleged above, is evidence that they are not competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public. Therefore, there would be grounds for the MREC to deny a license to Wesley and/or Ressco under § 339.040.1, RSMo (Supp. 2013), and there is cause to discipline their licenses under § 339.100.2(16), RSMo (Supp. 2013).

28. Wesley's and/or Ressco's conduct, as alleged above, constitutes untrustworthy, improper, and/or fraudulent business dealings and/or demonstrates bad faith, incompetence, misconduct, and/or gross negligence, providing cause to discipline their licenses under § 339.100.2(19), RSMo (Supp. 2013).

29. Section 339.100, RSMo states in pertinent part:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

...

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860[.]

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040.

...

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence[.]

30. Section 339.040.1, RSMo states in pertinent part:

1. Licenses shall be granted only to persons who present, and corporations, associations, partnerships, limited partnerships, limited liability companies, and professional corporations whose officers, managers, associates, general partners, or members who actively participate in such entity's brokerage, broker-salesperson, or salesperson business present, satisfactory proof to the commission that they:

...

(3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

WHEREFORE, Petitioner prays the Administrative Hearing Commission to conduct a hearing in this case pursuant to Chapter 621, RSMo, and thereafter issue findings of fact and conclusions of law that the Petitioner may discipline Respondents' real estate broker associate and real estate association licenses under Chapter 339, RSMo, and the regulations promulgated thereunder.

Respectfully submitted,

CHRIS KOSTER  
Attorney General



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